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Attorneys for Defendants
Lee's General Toys, Inc., and
John Lee

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CASE. NO. 07 CV 2391
(BTM AJB)

GEORGIA-PACIFIC CONSUMER
PRODUCTS LP, a Delaware limited
partnership,

Plaintiff,

vs.

LEE'S GENERAL TOYS, INC., a California
corporation, JOHN LEE, an individual; and
DOES 1-10,

Defendants.

) DEFENDANTS' DECL.
) OF R. MARTINETTI
) IN OPPOSITION TO
) MOTION FOR TEMPORARY
) RESTRAINING ORDER

) Date: Jan. 14, 2008
) Time: 2:30 pm
) Pl: Courtroom 11

) (Assigned to Hon.
) J. Houston)

DECLARATION OF RON MARTINETTI IN OPPOSITION TO TRO

I, Ron Martinetti, declare:

1. I became attorney for Defendants on January 7, the date that the opposition was due. It is my understanding that Defendant John Lee's daughter and Mr. Stephen Swinton were discussing a possible resolution but Mr. Swinton told Ms. Lee on or about January 6 that the Defendants should obtain legal counsel.

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2. On January 7, 2008 I sent in my application to be admitted to the Southern District via Federal Express. I am a member of the District Courts for Central and Northern California. Since I was not admitted to this Court as of January 7, I did not file any opposition papers as of that day.

3. I respectfully request that Plaintiff's motion be denied. Contrary to Plaintiff's assertion, the photographs attached to its moving papers show that there is no similarity between Angelite tissue paper and Angel Soft. The typeface is different, the color of the packaging is different, and the logos are different in size. (Ex Parte Application, pages 3 and 7) Further, Plaintiff

it does not claim a trademark in the key word "Soft." Moreover,

that demonstrate that any members of the public have been confused or are likely to be confused. Rather, Plaintiff has submitted as an exhibit an anonymous letter alleging that a Mr. Allen Chow has imported a confusingly similar product. (Decl. A. Towle, Exhibit 28) Mr. Allen Chow has no business relation to Defendants.

4. Plaintiff mentions in a footnote (Ex Application, page 7) that Defendant Lee's General Toys have a valid California trademark. certify cate which I believe demonstrates that Defendant is operating in good faith. In contrast, Plaintiff could have saved this court and all parties time and money by engaging in meaningful settlement discussions before filing this lawsuit. As Plaintiff admits

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1 in its moving papers, an easy accommodation could be reached by
2 requesting that Defendant remove the Angelite wrapping and rewrap
3 the tissue in a different package. (Ex Parte Application, page
4 20)

5 5) In addition to Plaintiff's failure to demonstrate its
6 probability of success, Plaintiff makes an absolutely bad faith
7 claim that Hispanic shoppers are more likely to be confused than
8 other shoppers. (Ex Parte Application, page 14) There is no
9 evidence of this whatsoever and Plaintiff should immediately
10 withdraw this claim in writing.

11 6) Plaintiff is a giant corporation that will suffer no
12 irreparable harm by the denial of its request for a TRO.
13 Defendant Lee's General Toys is a small business that will suffer
14 severe financial hardship and disruption if the TRO is granted
15 and it does not have the opportunity to plan any phasing out of
16 the Angelite line of tissue paper.

17 7) Based upon the above, we respectfully request that the TRO
18 be denied.

19 I declare under penalty of perjury that the foregoing is true
20 and correct.

21 Executed this January 8, 2008 at Glendale, California 91206

22
23 Donald Martetti
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State of California

SECRETARY OF STATE

Trademark Reg. No. 109437 Class No. Int. 16
CERTIFICATE OF REGISTRATION OF TRADEMARK

I, **KEVIN SHELLEY**, Secretary of State of the State of California, hereby certify:

That in accordance with the application filed in this office the **TRADEMARK** described below has been duly registered in this office on behalf of:

Name of Applicant: Lee's General Toys, Inc.
Business Address: 3389 E. 50th Street, Vernon, CA 90058
Date first used in California: January 31, 2002
Date first used anywhere: January 31, 2002
Description of Trademark: Angle Lite 500 and design, wherein the mark comprises the words "Angel Lite" and a star design disposed in the middle of an oval and the digits "500" disposed beneath the words "Angel Lite" inside the oval.
Description of Goods on which the Trademark is used: Toilet paper, bathroom tissue, tissue paper.
A copy, specimen, facsimile, counterpart or a reproduction of the mark is attached
Date of Registration: August 25, 2003
Term of Registration Extends to and Includes: August 25, 2013



IN WITNESS WHEREOF, I execute
this certificate and affix the Great
Seal of the State of California this
25th day of August, 2003.

Kevin Shelley
KEVIN SHELLEY
Secretary of State

Kevin Shelley
CALIFORNIA SECRETARY OF STATE

BUSINESS PROGRAMS DIVISION



As Secretary of State, it is my pleasure to notify you that the mark you submitted has been registered in this office.

Please be advised that Section 14220(f) of the Business and Professions Code specifies that a mark shall not be registered if it so resembles a mark or trade name already registered or used in this state by another and not abandoned, as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive.

My office has conducted a search of California trademark and service mark registrations. Your mark does not appear to resemble any previous registration.

Please be advised, however, that there may be unregistered marks or California trade names used by corporations and partnerships, fictitious names, and names, under which individuals conduct business which may resemble your registration. A check for such names is beyond the scope of the review of this office in registering marks.

Effective January 1, 1989 California trademark law no longer requires the Secretary of State to notify trademark owners of approaching expiration dates. Your trademark is valid for ten years and it is your responsibility to renew it within the six months prior to the expiration date.

KEVIN SHELLEY
Secretary of State

PROOF OF SERVICE

I am employed in Los Angeles County, California; I am over the age of eighteen years and not a party to the within action. My business address is 520 East Wilson Glendale, California 91206.

On this date I served Defendants' Decl. of R. Martinetti in Opposition to Motion for Temporary Restraining Order

by personal delivery (to the address below)

x

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box at Glendale, California, addressed to:

Stephen Swinton, Esq.
Latham & Watkins
12636 High Bluff Drive, Suite 400
San Diego, California 92130-2071
Tel. 858-523-5400
FAX 858-523-5450

and via FAX to counsel for Georgia-Pacific Consumer Prod. (x)

(x) BY MAIL I sealed and placed such envelope for collection and mailing to be deposited in the mail on the same day in the ordinary course of business at Glendale, California. I am readily familiar with our law firm's practice of collecting and processing correspondence and documents for mailing. They are deposited with the U.S. Postal Service on the same day as dated, in the ordinary course of business.

(State) I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

(x) (Federal

The papers are also to be filed via e-mail.

I declare under penalty of perjury of the state of California that the foregoing is true and correct.

Executed this January 8, 2008 at Glendale, California 91206

Don Martinetti